

Guidance Document #76-33

MEMORANDUM

TO: All Executive Directors
Health Regulatory Boards

FROM: Robert A. Nebiker
Director

Gail D. Jaspen
Chief Deputy Director

DATE: September 5, 2002

RE: Foreign Applicants; Requirement to Provide Social Security Numbers

It has come to our attention that certain foreign applicants for licensure, certification or registration by the health regulatory boards have encountered new obstacles in the effort to obtain work visas, social security numbers, and the authorization required to pursue their professions in Virginia. Based on recent reports from a Canadian nurse and a Korean pharmacy graduate, the problem appears to be as follows:

- An applicant reportedly cannot obtain a work authorization from the Immigration and Naturalization Service (INS) unless the applicant has a license, registration or certification to practice his/her profession.

- Va Code § 54.1-116 requires an applicant for license, registration or certification by a health regulatory board to provide a social security number (or a control number issued by the Department of Motor Vehicles) on his/her application. Even the legislation passed in 2002 Session of the General Assembly that allows certain Canadian nurses to be licensed as Registered Nurses by endorsement requires a “proper application” to the Board, which we must interpret as requiring a social security number. *Va. Code § 54.1-3001(4)*.

- The Social Security Administration, however, requires a foreign applicant for a social security number to have a work permit before it will issue a social security number.

This circular dilemma was not always insurmountable. It was true in the past that INS would issue a work permit upon a showing that a health regulatory board regarded an applicant as otherwise eligible for licensure, i.e., a statement indicating that the applicant's credentials were acceptable. Although we obviously cannot dictate INS or Social Security Administration policy, we may be able to assist foreign applicants by providing, in appropriate cases, provisional statements indicating an applicant's eligibility for licensure, registration or certification upon submission of a completed application with a social security number. According to advice received from board counsel, the following procedure would be reasonable and comply with statutory requirements:

- *You may allow the foreign applicant to submit his/her credentials as reflected on an otherwise complete application (i.e., lacking only the social security number), along with the application fee.*
- *The submission must be regarded as incomplete and cannot be considered a proper application to engage in the profession until the applicant provides a social security number. You will not officially "consider" or "act on" the submitted documentation until you are provided a social security number..*
- *If the potential applicant's credentials are otherwise acceptable, however, you may respond in writing, advising that under Virginia law, the application must be regarded as incomplete in that it lacks a social security number but, based on a preliminary review of the potential applicant's credentials as reflected in the information submitted, you find him/her otherwise eligible for the requested licensure, certification, or registration. You may reiterate that provided all submitted information is accurate and remains unchanged, the applicant need only to provide a social security number to complete his/her application.*

The federal agencies may or may not accept this as sufficient evidence of the individual's eligibility to work, but we would be extending to the applicant as much assistance as state law presently would permit.